

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3 FLAT ROCK TELEPHONE CO-OP,) DOCKET NO.
4 INCORPORATED) 04-0181
5)
6 Petition for Suspension or)
7 Modification of Section 251(b)(2))
8 Requirements of the Federal)
9 Telecommunications Act Pursuant to)
10 Section 251(f)(2) of said Act; for)
11 entry of Interim Order; and for)
12 other necessary relief.)
13 Springfield, Illinois
14 June 9, 2004

15 Met, pursuant to notice, at 8:45 A.M.

16 BEFORE:

17 MR. JOHN ALBERS, Administrative Law Judge

18 APPEARANCES:

19 MR. DENNIS K. MUNCY
20 MR. JOSEPH D. MURPHY
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 (Appearing on behalf of the Petitioner)

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 (Appearing on behalf of Verizon Wireless)

 SULLIVAN REPORTING COMPANY, by
 Carla Boehl, Reporter, CSR License #084-002710

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5 (Appearing on behalf of the Staff of the
6 Illinois Commerce Commission)

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I N D E X

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EXHIBITS

MARKED

ADMITTED

Flat Rock 1

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Flat Rock 2

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Verizon Wireless 1

e-Docket

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Verizon Wireless 1

Attachment D

208

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ICC Staff 1.0

e-Docket

234

ICC Staff 3.0

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1 PROCEEDINGS

2 (Whereupon Flat Rock
3 Exhibit 1 was marked
4 for purposes of
5 identification.)

6 JUDGE ALBERS: By the authority vested in me by
7 the Illinois Commerce Commission, I now call Docket
8 Number 04-0181. This was initiated by Flat Rock
9 Telephone Co-op, Inc. The Petitioner seeks a
10 suspension or modification of Section 251(b)(2)
11 requirements of the Federal Telecommunications Act.

12 May I have the appearances for the record,
13 please?

14 MR. MUNCY: Yes, Your Honor, Dennis K. Muncy
15 and Joseph D. Murphy, 306 West Church Street,
16 Champaign, Illinois 61820, and appearing for the
17 Petitioner Flat Rock Telephone Co-op, Incorporated.

18 MR. STANTON: On behalf of the Staff of the
19 Illinois Commerce Commission, Thomas R. Stanton and
20 Eric M. Madiar, Office of General Counsel, 160 North
21 LaSalle Street, Suite C-800, Chicago, Illinois
22 60601.

1 MR. RASHES: Good morning, Your Honor. Haran
2 C. Rashes and Roderick S. Coy of the law firm Clark
3 Hill, P.L.C., 2455 Woodlake Circle, Okemos, Michigan
4 48864, on behalf of Verizon Wireless.

5 JUDGE ALBERS: Thank you. Let the record
6 reflect that there are no others wishing to enter an
7 appearance.

8 As far as preliminary matters, the only
9 thing we have is Staff's May 24 motion for leave to
10 file its testimony instanter. Is there any
11 objection to that motion?

12 MR. MUNCY: No objection, Your Honor.

13 JUDGE ALBERS: The motion is granted. The
14 purpose of today's hearing is to admit into the
15 record any previously offered testimony and
16 obviously any objections. With that in mind, we
17 will go ahead and ask Mr. Muncy to call his first
18 witness.

19 MR. MUNCY: Yes, I would call Mr. Kevin J.
20 Jacobsen.

21 JUDGE ALBERS: Would you please raise your
22 right hand, and everybody else testifying in the

1 Flat Rock matter please stand and raise your right
2 hand.

3 (Whereupon the four Witnesses were
4 duly sworn by Judge
5 Albers.)

6 JUDGE ALBERS: Thank you, gentlemen.

7 KEVIN J. JACOBSEN

8 called as a Witness on behalf of Petitioner, having
9 been first duly sworn, was examined and testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. MUNCY:

13 Q. Mr. Jacobsen, would you state -- let you get
14 your files out or your testimony out. Would you
15 please state your name and business address for the
16 record, please.

17 A. Kevin Jacobsen, 104 North Rundle Street, P.O.
18 Box 147, Flat Rock, Illinois 62427.

19 MR. MUNCY: Are you going to waive?

20 MR. STANTON: Yes, we waive any foundational
21 questions.

22 MR. RASHES: No objections.

1 MR. MUNCY: Your Honor, we would like to offer
2 Flat Rock Exhibit 1 which consists of -- which is
3 Mr. Kevin J. Jacobsen's direct testimony in this
4 docket. That Flat Rock Exhibit 1 has a cover sheet
5 with 33 pages of questions and answers consisting of
6 Mr. Jacobsen's direct testimony.

7 That Flat Rock Exhibit 1 also has two
8 attachments. The first attachment is the Local
9 Number Portability Data Summary for Flat Rock which
10 was prepared by Mr. Jacobsen and addressed in his
11 testimony, and the Attachment 2, Flat Rock Exhibit
12 1, are copies of correspondence which Flat Rock
13 received from wireless carriers in regard to
14 wireline-to-wireless local number portability.

15 And then we would also be offering Flat
16 Rock Exhibit Number 2 which is a copy of
17 Mr. Jacobsen's rebuttal testimony in this docket.
18 That rebuttal testimony consists of 21 pages of
19 questions and answers. And there is one attachment,
20 and the attachment is a chart dealing with why the
21 minutes of use contained in Mr. Jacobsen's cost
22 estimate were correct. So we would offer Flat Rock

1 Exhibit Number 1 with Attachments 1 and 2 and Flat
2 Rock Exhibit 2 with Attachment 1.

3 JUDGE ALBERS: Is there any objection to any of
4 these exhibits?

5 MR. STANTON: No objection.

6 MR. RASHES: No objection, Your Honor.

7 JUDGE ALBERS: The exhibits are admitted.

8 (Whereupon Flat Rock
9 Exhibit 1 with
10 Attachments 1 and 2;
11 and Flat Rock Exhibit 2
12 with Attachment 1 were
13 admitted into
14 evidence.)

15 MR. MUNCY: You want to proceed?

16 JUDGE ALBERS: Well, in light of the fact that
17 we have to recess in about a half hour, Mr. Rashes,
18 are you willing to proceed as much as you can with
19 your cross?

20 MR. RASHES: Feel free to cut me off at any
21 time, Your Honor. Temporarily.

22 JUDGE ALBERS: Temporarily.

1 MR. MUNCY: Mr. Jacobsen is available for cross
2 examination.

3 MR. RASHES: Thank you.

4 CROSS EXAMINATION

5 BY MR. RASHES:

6 Q. Good morning, Mr. Jacobsen.

7 A. Good morning.

8 Q. My name is Haran Rashes of the law firm Clark
9 Hill, P.L.C., and I represent Verizon Wireless in
10 this matter. How long have you been general manager
11 of Flat Rock Telephone Co-op?

12 A. Approximately three and a half years.

13 Q. Are you general manager of any other phone
14 companies as well?

15 A. Yes, I am. I am general manager of Egyptian
16 Telephone Cooperative in Steeleville, Illinois.

17 Q. What is the relationship between Egyptian and
18 Flat Rock?

19 A. Egyptian provides managerial services to Flat
20 Rock.

21 Q. You mention in your testimony that Flat Rock is
22 a co-op. Can one remain a member if they are no

1 longer a customer?

2 A. No.

3 Q. Can one be a customer without being a member?

4 A. No.

5 Q. Do residents have a choice of telephone
6 provider for their land line service in Flat Rock's
7 service territory?

8 A. No.

9 Q. So I am correct in assuming that anyone who
10 wants land line service in your service territory
11 must be a member of the company?

12 A. Correct.

13 Q. How many customers does Flat Rock have?

14 A. As indicated in my testimony on page 5, line
15 128, approximately 532 access lines.

16 Q. Do you know how many customers?

17 A. In Staff Data Request Number 1.01, how many
18 customers does Flat Rock have, the response was 486.

19 Q. How many board members do you have?

20 A. Flat Rock Cooperative's board consists of five
21 board members.

22 Q. On lines 89 through 91 of your testimony you

1 state that you will provide wireline-to-wireless
2 local number portability when a sufficient number of
3 your members/customers desire the service. What do
4 you define as a sufficient number?

5 A. A sufficient number would be the six to ten
6 percent that we make reference to in our cost
7 summary.

8 Q. Under Flat Rock's bylaws what percentage of
9 members are needed to approve a rate increase?

10 A. I can't say. I don't have the bylaws in front
11 of me.

12 Q. Do you know what percentage of members are
13 needed to approve investments in new equipment?

14 A. No, I don't.

15 Q. Do you believe it is more -- do you believe it
16 is a hundred percent or less?

17 A. Can you repeat the items that you are stating
18 here?

19 Q. Do you believe that -- you state you don't have
20 the bylaws in front of you. But from your
21 recollection -- are you familiar with the bylaws?

22 A. Yes, I am, generally.

1 Q. From your recollection of the bylaws do you
2 require one hundred percent approval to approve a
3 rate increase?

4 A. No.

5 Q. Do you require one hundred percent of your
6 membership approval to upgrade your switch?

7 A. No.

8 Q. Do you require a hundred percent of your
9 membership approval to make new investments?

10 A. No.

11 Q. On line 90?

12 A. Again from my recollection, and not having
13 bylaws in front of me.

14 Q. On line 90 of your testimony, though, you state
15 that you will provide wireline-to-wireless local
16 number portability when all of your customers are
17 willing to pay the associated costs. Isn't that an
18 awfully high standard?

19 A. Even though the statement is all of our
20 members, once the decision is made, and again not
21 having the bylaws in front of me, I would say if a
22 majority speaks, that would include all of the

1 members. So all of the members would be paying once
2 that decision is made.

3 Q. But not necessarily willing to pay but just pay
4 it?

5 A. That would be correct.

6 Q. You state in your testimony on page 4 that you
7 are familiar with the FCC's orders in this matter,
8 is that correct?

9 A. Can you point me to that line?

10 Q. Question starting on 96 down to the, well, the
11 remainder of that answer down at the bottom of the
12 page and top of page 5. Are you familiar with those
13 orders that are cited there?

14 A. Yes, generally speaking.

15 Q. Was this petition filed in response to the
16 FCC's November 10 order requiring
17 wireline-to-wireless local number portability?

18 A. I am not sure I understand the question.

19 Q. Was this petition filed in response to the
20 FCC's order requiring wireline-to-wireless local
21 number portability?

22 A. I believe that's correct, yes.

1 Q. That FCC order was issued on November 10, 2003.
2 From November 10 through, let's say, January 1, what
3 steps did Flat Rock take to ready for local number
4 portability?

5 A. I can't say that we took any steps. We
6 continued to monitor the trade press and whatever
7 information was available to see what the FCC was
8 doing and the Commission.

9 Q. When did you take the first steps to begin
10 preparation for local number portability?

11 A. I believe in one of the data requests we made
12 reference to information was collected in the last 6
13 to 9 months.

14 Q. You just said you didn't do anything. So after
15 January 1?

16 A. Well, again, I should probably clarify that we
17 continued to monitor trade presses on what was going
18 on with LNP. So that probably was an unfair
19 statement. But to actually start implementing
20 anything such as the software and those sorts of
21 things that were needed, the impact, none of that
22 was done prior to.

1 Q. Did the FCC in its orders consider the public
2 interest in wireline-to-wireless local number
3 portability?

4 A. Yes, I assume so.

5 Q. At the bottom of page 6 to the top of page 7
6 you stated, quote, the fact that no wireline carrier
7 has requested interconnection network elements or
8 local number portability would indicate that there
9 is not a sufficient or significant demand for local
10 number portability or service from competitive
11 carriers within Flat Rock's service area. Are there
12 any CLECs serving Flat Rock's serving area?

13 A. What page is that?

14 Q. The bottom of page 6, the top of page 7.

15 A. Direct testimony?

16 Q. Yes.

17 A. Can you restate your question?

18 Q. Are there any competitive local exchange
19 carriers serving Flat Rock's service area?

20 A. No.

21 Q. You also talk in your direct testimony about
22 what SBC has done vis-a-vis wireline-to-wireless

1 local number portability. SBC is considerably
2 larger than Flat Rock, correct?

3 A. Yes, that would be a fair statement.

4 Q. Are you aware if there are any rural carriers
5 in Illinois providing local number portability?

6 A. No, I am not.

7 Q. Did you investigate whether or not there are in
8 preparation for testifying today?

9 A. No, I did not.

10 Q. Your Attachment 2 consists of a series of
11 letters from Verizon Wireless. Are you familiar
12 with the content of those letters?

13 A. I have not read them word for word recently but
14 in general, yes, I am.

15 Q. Does Flat Rock consider those letters bona fide
16 requests for local number portability service?

17 A. No.

18 Q. Isn't it true that Verizon wireless actually
19 titled one of the attachments to those letters a
20 bona fide request?

21 A. If you can point me to that one, I can look at
22 it.

1 Q. The attachment to the October 22, 2003 letter.

2 A. October 22?

3 Q. Yes, and the attachment to the October 9, 2003,
4 letter.

5 A. The attachment does say bona fide request form.

6 Q. On page 9 of your direct testimony you
7 specifically point out that Verizon Wireless does
8 not have a point of interconnection in Flat Rock's
9 service territory. Does the FCC require such for
10 wireline-to-wireless local number portability?

11 A. I believe that is yet to be determined by the
12 FCC.

13 Q. You stated, though, you are familiar with the
14 FCC rules, correct?

15 A. Generally speaking.

16 Q. Didn't you later in your testimony specifically
17 say, quote, and this is page 18, line 417, the FCC
18 orders and rules as they now stand do not require a
19 wireless carrier to have a point of presence within
20 Flat Rock's area?

21 A. What line is that?

22 Q. Page 18, line 417.

1 A. That's correct.

2 Q. You also discuss at the top of page 10 that the
3 way that you allegedly have to route these calls
4 would, quote, normally lead to such a call being
5 rated as an interexchange call or toll call, end
6 quote. Isn't it correct that the FCC rules do not
7 allow a ported call to be rated as an IXC or toll
8 call?

9 A. Are you referencing the --

10 MR. MUNCY: I am going to object to that. I
11 believe that calls for a legal conclusion.

12 MR. RASHES: Withdrawn, Your Honor.

13 Q. You state in your testimony you also testified
14 on behalf of Egyptian Telephone Cooperative in
15 Docket 03-0726, correct?

16 A. Correct.

17 Q. Are you familiar with that docket?

18 A. It's been awhile since I reviewed it but
19 generally yes.

20 Q. In addition to filing in that docket, didn't
21 Egyptian also present many of the same issues to the
22 FCC in FCC Docket Number 04-12?

1 A. I don't have the file for Egyptian with me at
2 this time. I do know that through legal counsel we
3 did make a filing for an extension.

4 Q. Flat Rock did not joint Egyptian in that
5 filing, is that correct?

6 A. That's correct. I understand the distinction
7 there was Egyptian was in the top 100 MSA's at the
8 time and Flat Rock is not within the top 100 MSA's.
9 So there is a difference of timing there.

10 Q. Are you aware that petition for rehearing of
11 the Egyptian case has been filed?

12 A. Yes, I have seen that information that came by
13 e-mail.

14 Q. So you have reviewed that petition for
15 rehearing?

16 A. I have read the cover letter.

17 Q. If the Egyptian petition had been denied by
18 this Commission, would Flat Rock be filing this
19 petition?

20 A. Yes.

21 Q. You state on page 12 of your testimony, line
22 287, that you used the information available from

1 other dockets, taking into account Staff's response
2 as well as Flat Rock's specific information. Are
3 you familiar with the February 26 report of ex parte
4 communication between Mr. Madiar and Mr. Barnekov at
5 the FCC?

6 A. Yes, I am.

7 Q. Did you take that into account to familiarize
8 yourself with the cost estimates here? I am going
9 to rephrase. Was that taken into account in
10 developing the cost estimates here?

11 A. I believe the ex parte that you are making
12 reference to was pointed out to us in a Staff data
13 request that hadn't been -- we had not seen that at
14 that time. So when the direct testimony was filed,
15 I don't believe I had any awareness of that ex
16 parte. And then it was brought to my attention and
17 was then reviewed after.

18 Q. As the witness in Egyptian, though, you were
19 not that familiar with the Egyptian file to have
20 seen it in there?

21 A. It was never served upon us. At our data
22 request -- and I don't have the number; I can look

1 it up, if you would like -- it states that we had
2 not been served with it, so we weren't aware of it
3 at the time.

4 Q. You state on the top of page 13 that Flat Rock
5 should not be required to provide
6 wireline-to-wireless local number portability until
7 such time as operational and administrative problems
8 associated with its provision are worked out on a
9 global basis by the larger carriers. What do you
10 consider a reasonable amount of time for the
11 operational administrative, quote unquote, problems
12 to be worked out?

13 A. I believe it's the request that we have made
14 for the two and a half years, the 30 months.

15 Q. So that's one of the bases for your request?

16 A. I am not sure I follow your question.

17 Q. Are you saying that that is one of the bases
18 for your request?

19 A. No, the basis for our request is our new
20 burden.

21 Q. So it is not one of the bases for your request?

22 A. I think it is all part of it. As you look at

1 the entire process of what it will take, it's all
2 wrapped up and those are driving costs to form the
3 undue burden on the customer.

4 Q. Have you researched problems that are occurring
5 and how they are being worked out?

6 A. I have only followed what has been in the trade
7 presses.

8 JUDGE ALBERS: Mr. Rashes, does that complete a
9 line of questioning there? Why don't we stop there
10 if you are going to start a new line of questioning?
11 Why don't we recess for about 45 minutes.

12 MR. MUNCY: Thank you, Your Honor.

13 (Whereupon the hearing
14 was in a short recess.)

15 JUDGE ALBERS: Back on the record. Mr. Rashes,
16 would you like to resume your cross exam, please.

17 MR. RASHES: Thank you, Your Honor.

18 BY MR. RASHES:

19 Q. Mr. Jacobsen, if you could please turn to page
20 15 of your direct testimony, from lines 348 to 350,
21 maybe 364, you talk about certain example take
22 rates. In that section of your testimony you refer

1 to Verizon. Do you mean Verizon land line or
2 Verizon Wireless then?

3 A. Verizon land line.

4 Q. Through what days were these take rates
5 measured?

6 A. I do not know that. As referenced in here,
7 this was testimony from witness Hoagg.

8 Q. Testimony in what case?

9 A. In the Egyptian case.

10 Q. And when was that testimony offered?

11 A. I don't have that date in front of me.

12 Q. Approximately what month?

13 A. February.

14 Q. Did you make any attempt to update these
15 numbers since February?

16 A. No, I did not.

17 Q. You mention a January date here. How old was
18 wireline-to-wireless local number portability in
19 January?

20 A. It was implemented in November, I believe, so
21 approximately two months.

22 Q. What was Flat Rock's take rate for caller ID in

1 its first two months?

2 A. I don't have that number available.

3 Q. Do you know for call forwarding?

4 A. No, I don't.

5 Q. You state on line 355 and 356 that Flat Rock
6 sees no evidence that there is any significant
7 demand and you state elsewhere in your testimony you
8 didn't conduct any survey, did you?

9 A. We have not conducted any formal survey.

10 However, being a small rural cooperative with 532
11 access lines, we know -- virtually have interaction
12 with members every day. And from that we have not
13 had requests for LNP. So that's what the
14 information is based off of.

15 Q. Do you believe that the customers would
16 necessarily come to you if they wanted to request
17 porting their number to a wireless carrier?

18 A. I believe there are several sources that they
19 can go to. I believe we have a very good
20 relationship with our membership. And when they
21 have telecommunication needs we are one of the first
22 people they come in to ask.

1 Q. Have you ever switched jobs in your life?

2 A. Yes, I have.

3 Q. When you did your job hunt, did you send your
4 resume' to your old employer or did you send it out
5 to perspective employers?

6 A. Perspective.

7 Q. What level of demand do you believe would
8 warrant -- actually, I will withdraw this. I think
9 you answered this earlier. You also state on page
10 16 that you have determined this alleged lack of
11 demand from your customer service representatives.
12 When were your customer service representatives
13 asked to begin collecting this information?

14 A. I don't have a specific date, but by following
15 the LNP information in the trade press when it was
16 coming up on the launch date of November, it has
17 been in the forefront of our minds. And, again, we
18 have not had requests from our members.

19 Q. And is there an actual form that the customer
20 service representative would fill out if they did
21 get a request?

22 A. No, we don't, not as a small company.

1 Q. How many customer service representatives do
2 you have?

3 A. One.

4 Q. On a staff of what?

5 A. Three.

6 Q. What type of switch does Flat Rock have?

7 A. Flat Rock has a Siemens DCL.

8 Q. And how old is that switch?

9 A. I believe by the data request from Verizon that
10 -- I can't put my fingers directly on it, but I feel
11 very comfortable that it was 1991.

12 Q. How often is that switch upgraded?

13 A. Again, in the data request that information was
14 provided and if you could point me to that data
15 request, I could give you the exact dates.

16 Q. I don't have that in front of me. As general
17 manager aren't you the one who authorizes the
18 upgrades to the switch?

19 MR. MUNCY: Counsel, if you will give him time
20 to look for it, he did answer it in data requests.
21 He wants to be accurate.

22 A. I have got it now. In Verizon Wireless Data

1 Request 2.05 the release upgrades and the
2 installation dates are provided.

3 Q. Will you please answer the question? That's
4 not in evidence. Can you please let us know how
5 often is that switch upgraded?

6 MR. MUNCY: Give him the dates.

7 A. The dates, 2/7/94, 7/1/96, 3/19/97, 10/15/99,
8 8/9/01, 11/31/02 and 08/29/03.

9 Q. How are the costs of those upgrades typically
10 recovered?

11 A. Those costs would be recovered in our cost
12 study.

13 Q. And when was the last cost study for Flat Rock?

14 A. I don't have that information, but it would be
15 within the last probably two years, 18 months.

16 Q. You say it would be recovered in the cost
17 study. How do you get the additional revenue
18 required to do this? Do you raise rates to upgrade
19 your switch?

20 A. I am not sure I follow your question.

21 Q. I am not sure I followed your answer in terms
22 of it is in the cost study. Does the cost study

1 provide for raising of rates to cover those extra
2 expenses?

3 A. The raising of rates, I am not sure I follow
4 you.

5 Q. How do you recover the increased costs of the
6 new investment in the switches?

7 A. Those would be through the access rates.

8 Q. From a hardware standpoint is Flat Rock's
9 switch ready for LNP?

10 A. No, it is not.

11 Q. Would additional hardware, not software, but
12 hardware have to be added to that switch?

13 A. To my knowledge there would be. The software
14 is needed.

15 Q. Rephrase my question. I will re-ask my
16 question again. From a hardware standpoint is that
17 switch ready for LNP?

18 A. I would say from a hardware perspective, yes,
19 it would be. However, the hardware has to have the
20 software to make the hardware work. And I guess the
21 analogy that comes to mind is if you have a vehicle,
22 a car, the car is no good without gasoline. So you

1 have to have the gasoline to make the car move. So
2 we need the software to make the switch work.

3 Q. In what area codes or NPAs does Flat Rock
4 operate?

5 A. 618.

6 Q. And how many NXXs do you have in 618?

7 A. One.

8 Q. And how many NXXs are reserved for Flat Rock's
9 use within that 618 area code?

10 A. Only the one.

11 Q. And how many numbers are available to Flat Rock
12 within that one NXX?

13 A. It would be the entire NXX.

14 Q. And how many numbers is that?

15 A. Ten thousand.

16 Q. And how many of those 10,000 are you using
17 right now?

18 A. We would be using 532, as indicated in the
19 testimony.

20 Q. So in terms of just trying to figure out how
21 many numbers you are not using, I can just take the
22 10,000 and subtract the 532, correct?

1 A. That would be very close, yes.

2 Q. It would be very close?

3 A. Well, obviously access lines vary up or down
4 from customers moving in or moving out.

5 Q. But assuming the 532 is accurate right now?

6 A. Correct.

7 Q. It would. Today how does Flat Rock deliver a
8 telephone call to a cell phone?

9 A. The customer dials up a long distance phone
10 call to that specific cell phone number.

11 Q. You talk quite a bit in your testimony about
12 transport and transiting costs. Did the FCC address
13 transport and transiting costs in their LNP orders?

14 A. No, they did not.

15 Q. They did not address it at all?

16 A. Yes, they addressed it but it was deferred to a
17 later time, my understanding.

18 Q. Did the FCC, in deferring it to a later time,
19 say anything about whether or not carriers should go
20 forward with the implementation of
21 wireline-to-wireless while waiting for a future
22 order?

1 A. The FCC?

2 Q. Yes.

3 A. From what I have read of the FCC, I would say
4 yes.

5 Q. And what did the FCC say?

6 A. That they would prefer companies to move
7 forward.

8 Q. Would these transport and transiting costs drop
9 if Verizon Wireless had a point of interconnection
10 in Flat Rock's territory?

11 A. Based on the negotiations with the salient
12 provider, I would say yes.

13 Q. Has Flat Rock initiated any such negotiations?

14 A. No, nor has a wireless carrier initiated with
15 Flat Rock.

16 Q. Your Exhibit 1 which is the Local Number
17 Portability Data Sheet, the cost estimates on it
18 takes out those costs over a five-year period of
19 time, correct?

20 A. Correct.

21 Q. Are you aware that other carriers have
22 petitioned the FCC for an additional time period

1 beyond those five years?

2 A. No, I am not.

3 Q. Has Flat Rock applied for any additional time
4 period beyond the five years?

5 A. No, we have not.

6 Q. What would be the general impact on the cost
7 per month to customers if those costs were carried
8 over, let's say, ten years?

9 A. I am not a cost analyst, but I assume they
10 would be something less. However, we are utilizing
11 the cost model from the NECCA, and I forget the
12 transmittal. And from that it is stated very
13 specifically over five years.

14 Q. You just said you are not a cost analyst?

15 A. Correct.

16 Q. Did you develop this cost study?

17 A. No, I did not.

18 Q. Who did develop this cost study?

19 A. This was utilized in the first five cases.

20 Q. And who customized it to this case?

21 A. Our company did. We put the numbers in.

22 Q. Who at the company did that?

1 A. I did.

2 Q. You just said you didn't develop it but you --

3 A. I didn't develop the model. We worked with the
4 model to put the inputs in.

5 Q. Who developed all the assumptions in the model?

6 A. The assumptions were brought from the NECCA
7 transmittal of the wireline-to-wireline LNP cost
8 model.

9 Q. Did you question any of those assumptions or
10 did you just plug in the datan?

11 A. I am sure that there was a lot of discussion on
12 all of the line items.

13 Q. Did you?

14 A. No.

15 Q. In that cost model you have a cost of \$23,800
16 for the loading or activation of the local number
17 portability capability within Flat Rock's switch.
18 Are you aware that this is significantly more than
19 the \$15,000 that you testified about in Egyptian?

20 A. I don't have the Egyptian number in front of
21 me. But it very well could be.

22 Q. Doesn't Egyptian have considerably more lines

1 than Flat Rock?

2 A. Egyptian does have considerably more lines.

3 However, we are not comparing apples to apples as
4 Egyptian has a Nortel switch and Flat Rock has the
5 Siemens switch. And that cost was, as provided in
6 some of the data requests, that cost was supplied
7 directly from Siemens for the software charge.

8 Q. Any negotiating take place to try to lower
9 that?

10 A. Not to my knowledge. But, again, with 532
11 lines there is not a lot of negotiating power.

12 Q. At page 25, line 582.

13 A. Excuse me, page 25?

14 Q. Page 25, line 582, you state, quote, we have
15 discussed the potential demand with other companies
16 and advisors. Who did you discuss it with?

17 A. Those discussions would be obviously with
18 Egyptian.

19 Q. So you discussed it with yourself, okay.

20 A. Myself.

21 Q. Who else?

22 A. And the other five companies and other parties

1 involved in similar cases.

2 Q. You stated you made the determination that
3 these potential demand estimates are, quote,
4 reasonable. What do you believe the potential
5 demand for LNP will be?

6 A. I believe it will be very minimal.

7 Q. Below six percent?

8 A. Possibly.

9 Q. Do you consider six percent very minimal?

10 A. I think the six percent -- actually, the 6 to
11 10 percent was a percentage that we used that would
12 show us significant demand so that we should move
13 forward because our membership had interest in that
14 feature.

15 Q. Which do you believe the Commission should use
16 in making a determination on your petition? Very
17 little demand or six to ten percent demand? If they
18 have to pick one of them, which one do you think
19 they should choose?

20 A. I believe they could choose either. And I say
21 that because you have initial start-up costs.
22 Whether you have zero percent usage or you have six

1 to ten percent usage, you still have fixed start-up
2 costs that are there which are listed in the
3 summary, cost summary.

4 Q. You state that on lines 641 and 642 that it
5 would allegedly be burdensome on Flat Rock's
6 customers to make them pay for costs for service
7 which they do not desire. You didn't conduct any
8 formal surveys to find out if anyone desires this or
9 not?

10 MR. MUNCY: It has been asked and answered. I
11 object.

12 JUDGE ALBERS: Sustained.

13 MR. RASHES:

14 Q. You also say that this over, alleged over,
15 expense that you might have would be a burden on the
16 customers. Wouldn't that burden be returned to them
17 as members in the company?

18 A. I am not sure I follow the question.

19 Q. If there were an over-collection in the amounts
20 of LNP surcharge, wouldn't that over-collection be
21 returned to the members in some form or another?

22 MR. MUNCY: I would object. Where does it say

1 that there is an over-collection that you are
2 referring to?

3 MR. RASHES: On 636 through 643, "That is
4 correct, you will have over-estimated various
5 variable costs."

6 MR. MUNCY: It doesn't say over-collection.

7 MR. RASHES:

8 Q. If there was an over-estimate of those variable
9 costs and the Commission denied your petition and
10 you filed these very numbers with the FCC and they
11 were approved and demand were lowered, would there
12 be an over-collection?

13 A. Yes, there could be as well as the flip side of
14 it where there could be an under-collection.

15 Q. If there were an over-collection, would that
16 over-collection be returned to the members?

17 A. At some point in time, yes, they would be.

18 Q. Did you review the wireless-to-wireline number
19 portability service level agreement sent to you by
20 Verizon Wireless on October 14?

21 A. Yes.

22 Q. Of 2003?

1 A. Yes, I reviewed it at the time that I received
2 it, but it has been some time since I --

3 Q. Did you respond to Verizon Wireless?

4 A. Yes, we did, as has been indicated in one of
5 the data requests that we provided in our response
6 through legal counsel.

7 Q. You have a line item entitled Technical
8 Trouble, and you base that estimate on Flat Rock's
9 experience with similar issues and services. Which
10 similar issues and services are you referring to
11 there, page 29, line 677?

12 A. What was the line again?

13 Q. Line 677.

14 A. It is based on our best estimate of working
15 with the switch and the technical issues that we
16 have had across the years of implementing new
17 services.

18 Q. And what services were those?

19 A. I don't have a specific list of services, but I
20 mean in any one of those releases that we spoke
21 about, there are new services that are involved in
22 there and our technical people have to work through

1 any of the issues.

2 Q. But you don't have a specific service?

3 A. I don't have a specific service.

4 Q. Did you have to raise your rates because of the
5 technical problems they encountered with those other
6 services?

7 A. I would say not directly.

8 Q. If a suspension is granted, will Flat Rock be
9 ready to provide wireline-to-wireless local number
10 portability on November 24, 2006?

11 A. If the current request is granted, yes, we
12 would be, with the caveat of coming back into the
13 Commission with any new information that may be
14 available. But under the current request, yes, we
15 would be.

16 Q. Do you mean to indicate that you might come
17 back for another extension at that point?

18 A. I am saying that in light of any new
19 information that would be available, we would retain
20 that option, if necessary.

21 Q. If this petition is denied, let's say it is
22 denied tomorrow hypothetically -- I'll change it.

1 Let's say it's denied July 1, to make it a little
2 easier to calculate here. On what date would Flat
3 Rock be ready to provide wireline-to-wireless local
4 number portability?

5 A. This is only my best guess, but I would say 60
6 to 90 days.

7 MR. RASHES: Your Honor, that's all I have for
8 this witness.

9 JUDGE ALBERS: Thank you, Mr. Rashes. Do you
10 have any questions?

11 MR. STANTON: No cross.

12 JUDGE ALBERS: Just a couple, Mr. Jacobsen.

13 EXAMINATION

14 BY JUDGE ALBERS:

15 Q. In light of Staff's position and your rebuttal
16 testimony, would it be true to say that the
17 Petitioner is now only seeking a waiver under
18 Section 251(f)(2)(A)(i) regarding the impact on
19 customers?

20 A. That's correct.

21 Q. And can you tell me how low the cost to
22 customers would have to be before Flat Rock would no

1 longer consider the cost a significant adverse
2 economic impact?

3 A. That's a difficult question to answer.
4 Something significantly less than the numbers that
5 are in the cost summary, but I think it is important
6 to tie that back to the six to ten percent. Because
7 at that demand level we know that there is a
8 customer need and want for that and we are willing
9 to implement at that point.

10 JUDGE ALBERS: Okay. Thank you. Do you have
11 any redirect, Mr. Muncy?

12 REDIRECT EXAMINATION

13 BY MR. MUNCY:

14 Q. The counsel for Verizon Wireless asked about
15 how long it would take Flat Rock to implement local
16 number portability if the suspension were denied. I
17 assume your estimate is dependent upon vendor
18 availability to perform necessary functions and the
19 availability of other personnel in that regard?

20 A. Yes, that's correct.

21 Q. I think, as you indicated, with Flat Rock being
22 a company with some 500 some access lines, am I

1 correct the company doesn't necessarily have a great
2 amount of clout in regard to being first on the
3 list?

4 MR. RASHES: Your Honor, objection, these are
5 leading questions.

6 MR. MUNCY: I will withdraw the question. I
7 will withdraw the question. That's all.

8 JUDGE ALBERS: Okay. Thank you, Mr. Jacobsen.
9 Actually, do you have any recross on that?

10 MR. RASHES: No, Your Honor.

11 JUDGE ALBERS: Okay.

12 THE WITNESS: Thank you, Your Honor.

13 (Witness excused.)

14 JUDGE ALBERS: Mr. Jacobsen, thank you
15 generally for your direct answers.

16 MR. JACOBSEN: Thank you.

17 JUDGE ALBERS: Does the Company have anything
18 further?

19 MR. MUNCY: That's all, Your Honor.

20 JUDGE ALBERS: Mr. Rashes, would you like to
21 call your witness?

22 MR. RASHES: I would call Mike McDermott to the

1 stand.

2 JUDGE ALBERS: Mr. McDermott, you were sworn in
3 this morning?

4 MR. McDERMOTT: Yes, I was.

5 JUDGE ALBERS: Okay. I thought so but I wanted
6 to double check.

7 MR. RASHES: Your Honor, I would like to have
8 this exhibit marked, the same exhibit as yesterday.

9 (Whereupon Verizon
10 Wireless Exhibit 1
11 Attachment D was marked
12 for purposes of
13 identification.)

14 JUDGE ALBERS: Please proceed, Mr. Rashes.

15 MR. RASHES: Thank you, Your Honor.

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MICHAEL A. McDERMOTT

called as a Witness on behalf of Intervenor Verizon Wireless, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. RASHES:

Q. Mr. McDermott, if you would please state your full name and address for the record.

A. Yes, Michael, M-I-C-H-A-E-L, middle initial A, last name, M-c-D-E-R-M-O-T-T, 1515 Woodfield Road, Suite 1400, Schaumburg, Illinois 60173.

Q. And are you the same Michael A. McDermott who caused to be prepared and prefiled the direct testimony of Michael A. McDermott on behalf of Verizon Wireless on May 20, 2004, in this case?

A. Yes.

Q. And does that direct testimony consist of 23 pages in question and answer format?

A. Yes.

Q. And were there three attachments to that direct testimony as initially filed?

A. Yes.

1 Q. And does Attachment A consist of a letter from
2 the Illinois Commerce Commission signed by Thomas G.
3 Aridas to the Federal Communications Commission?

4 A. Yes.

5 Q. Does Attachment B to that testimony consist of
6 a letter from -- or to Stan Wise, the president of
7 NARUC from the Chief of the Consumer and
8 Governmental Affairs Bureau at the Federal
9 Communications Commission?

10 A. Yes.

11 Q. And does Exhibit C consist of a brief excerpt
12 from "NECCA Washington Watch"?

13 A. Yes.

14 MR. RASHES: Your Honor, for the record all
15 three of those attachments to the direct testimony
16 were filed electronically on e-Docket.

17 Q. Mr. McDermott, do you have an additional
18 exhibit to add today?

19 A. Yes.

20 Q. That exhibit which has been premarked
21 Attachment D to Exhibit 1, can you please tell me
22 what it consists of?

1 A. It consists of wireline phone numbers that have
2 made a request of Verizon Wireless to port to the
3 companies listed under OCN Name but were denied
4 because the numbers that they were seeking to port
5 were not registered in the local exchange routing
6 guide, the LERG.

7 Q. And the information on this report, when did it
8 start to be collected by Verizon Wireless?

9 A. Verizon Wireless began compiling this data on
10 May 24 of this year.

11 Q. Am I correct to assume that was after you
12 prefiled your testimony on May 20?

13 A. That is correct.

14 Q. And when did you request this report be issued?

15 A. I requested this report to be run initially on
16 June 7 in the evening and again on the morning of
17 June 8, 2004.

18 Q. If I were to ask you the same questions
19 contained in your testimony, in your prefiled
20 testimony, your answers would be the same?

21 A. Yes.

22 MR. RASHES: With that, Your Honor, I would

1 move for admission of the direct testimony of
2 Michael A. McDermott on behalf of Verizon Wireless
3 and Attachment A, B, C and D thereto.

4 JUDGE ALBERS: Any objection?

5 MR. MUNCY: Yes, Your Honor. In light of your
6 ruling in other dockets I am not going to object to
7 Attachments A through C. I am, however, going to
8 object to the introduction of Attachment D. This is
9 an attempt to supplement their direct testimony
10 which is not in accordance with the schedule that
11 was established in this docket. This is new
12 information which we have not been able to conduct
13 discovery about, and it is, in light of the schedule
14 that's been established in this case, this is an
15 inappropriate attempt to supplement their direct
16 testimony.

17 JUDGE ALBERS: Staff have any objection?

18 MR. MADIAR: Just so the record is clean we
19 would renew the same objection we had made before.
20 It is hearsay. It is not an exception. This is a
21 business record and Mr. McDermott is not the
22 custodian of record. We don't feel that there has

1 been sufficient foundation laid that this is a
2 business record kept in the normal course of
3 business. And that would be all.

4 JUDGE ALBERS: I do have one question. I don't
5 see Flat Rock on this.

6 MR. RASHES: That is correct, Your Honor. Flat
7 Rock is not on this list at this time. However, as
8 Your Honor will note from the testimony of both
9 Mr. Jacobsen and Mr. Hoagg, they both referred to
10 take rates elsewhere in the state on
11 wireline-to-wireless number portability. So that is
12 why this is relevant to this proceeding. These are
13 take rates for quite a few rural ILECs.

14 And in addition in response to the other
15 objections that were raised, this report could not
16 have possibly been created or even started to be
17 created until after May 24, the day that
18 wireline-to-wireless local number portability should
19 have been implemented throughout the country
20 pursuant to the FCC's direction. It is a regularly
21 conducted report now of Verizon Wireless that they
22 will continue to keep up even after these

1 proceedings are long over. And Mr. McDermott as a
2 representative of the company has access to these
3 materials and to these regularly conducted business
4 records.

5 In addition, we have seen the hearsay
6 objection that Staff makes, find it very ironic that
7 Staff would object this is hearsay, when their own
8 witness basically says, oh, I just spoke to someone
9 at Verizon and SBC and these are their take rates.

10 MR. MADIAR: May I respond, Your Honor?

11 JUDGE ALBERS: Yes.

12 MR. MADIAR: If Mr. Rashes or Verizon Wireless
13 had a problem with what Mr. Hoagg may have done or
14 the other witness that Staff had at that time, they
15 should have noted the objection at that time. So as
16 far as I am concerned there is nothing more that
17 needs to be said on that matter.

18 MR. RASHES: Your Honor, we didn't object but
19 we want the same standard applied equally to all
20 parties.

21 JUDGE ALBERS: I understand but I am troubled
22 by a document with no reference to Flat Rock and we

1 are concerned about Flat Rock here primarily, as
2 opposed to the other companies identified on this
3 list. Your main purpose then in wanting to submit
4 it is demonstrative of take rates generally in
5 Illinois?

6 MR. RASHES: Yes.

7 JUDGE ALBERS: At least as far as Verizon
8 Wireless is concerned?

9 MR. RASHES: Correct. Clearly, if there is no
10 Flat Rock on there, and admittedly there isn't, we
11 certainly won't be able to point and say Flat Rock
12 is on here.

13 JUDGE ALBERS: I think in the absence of Flat
14 Rock, I have other concerns to raise and this pushes
15 this past the point of it being appropriate to
16 admit. So I will admit Verizon Wireless Exhibit 1
17 with Attachments A, B and C but not Attachment D .

18 (Whereupon Verizon
19 Wireless Exhibit 1 with
20 Attachments A, B and C
21 was admitted into
22 evidence.)

1 MR. RASHES: Your Honor, I would tender
2 Mr. McDermott for cross examination.

3 JUDGE ALBERS: Thank you. Mr. Muncy?

4 MR. MUNCY: Judge, in light of your ruling I
5 have no cross examination for Mr. McDermott in this
6 docket.

7 JUDGE ALBERS: Does Staff have any questions
8 for Mr. McDermott?

9 MR. STANTON: No.

10 JUDGE ALBERS: I don't think I have any
11 questions either. Thank you.

12 THE WITNESS: Thank you, Your Honor.

13 (Witness excused.)

14 MR. RASHES: Your Honor, that concludes Verizon
15 Wireless's direct case.

16 JUDGE ALBERS: Thank you. Mr. Stanton?

17 MR. STANTON: Staff calls Mr. Koch to the
18 stand.

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ROBERT F. KOCH

called as a Witness on behalf of Staff of the Illinois Commerce Commission, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. STANTON:

Q. Mr. Koch, would you state your full name and business address.

A. My name is Robert F. Koch, K-O-C-H, 527 East Capitol Avenue, Springfield, Illinois 62701.

Q. Do you have before you a document which has been marked for purposes of identification as ICC Staff Exhibit 3.0 consisting of 18 pages of narrative testimony in question and answer format, along with four attachments containing various calculations marked for purposes of identification as Schedules 3.1, 3.2, 3.3 Public and 3.3 Proprietary entitled Direct Testimony of Robert F. Koch?

A. Yes, I do.

MR. MUNCY: I would be glad to waive foundational questions in regard to Mr. Koch's

1 testimony and have no objection to the admission of
2 Staff Exhibit 3 and the attachments.

3 MR. RASHES: No objection, Your Honor.

4 JUDGE ALBERS: Thank you. Would Staff identify
5 them, please? Sorry, you did identify them.

6 MR. STANTON: At this time I would ask that the
7 direct testimony of Robert F. Koch previously marked
8 Staff Exhibit 3.0, along with four attachments
9 identified as Schedules 3.1, 3.2, 3.3 Public and 3.3
10 Proprietary, all of which have been filed on the
11 Commission's e-Docket filing system, be admitted
12 into evidence.

13 JUDGE ALBERS: Hearing no objection to their
14 admission, Staff Exhibit 3.0 with the four
15 attachments are admitted.

16 (Whereupon ICC Staff
17 Exhibit 3.0 with
18 Schedules 3.1, 3.2, 3.3
19 Public and 3.3
20 Proprietary was
21 admitted into
22 evidence.)

1 MR. STANTON: The witness is available for
2 cross examination.

3 JUDGE ALBERS: Mr. Rashes?

4 MR. RASHES: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. RASHES:

7 Q. Good morning, Mr. Koch. My name is Haran
8 Rashes of the law firm Clark Hill, P.L.C., on behalf
9 of Verizon Wireless. Your testimony consists of a
10 lot of discussion about Flat Rock's proposed LNP
11 cost recovery. Does the Commission have to approve
12 such LNP cost recovery surcharges?

13 A. No, they do not.

14 Q. This LNP surcharge as proposed goes on for five
15 years, and back on page 7 of your testimony, lines
16 145 to 147, you state you are familiar with the FCC
17 rules on this matter, is that correct?

18 A. Yes.

19 Q. To your knowledge has any carrier applied to
20 the FCC to extend the LNP surcharge past five years?

21 A. I was not aware of any.

22 Q. What would be the effect of such an extension

1 on that surcharge?

2 A. My understanding is that it would reduce the
3 surcharge.

4 Q. Also on page 7 you stated that you are familiar
5 with SBC's LNP cost recovery in its federal tariff
6 FCC Number 2, is that correct?

7 A. That is correct.

8 Q. And you are also familiar with NECCA tariff FCC
9 Number 5, 482nd revision of page 1, is that correct?

10 A. That is correct.

11 Q. Did you review any other FCC tariffs besides
12 these two for purposes of these cases?

13 A. No, I did not.

14 Q. Do you know if any other Illinois carriers have
15 filed such tariffs?

16 A. My understanding is that Verizon has also.

17 Q. That would be Verizon land line, correct?

18 A. Correct. And I believe at the time that they
19 filed it, I believe it would have been GTE. And so
20 that is my understanding.

21 Q. But you did not review the Verizon Wireless?

22 A. No, I did not.

1 Q. Do you know if any rural LECs have filed such
2 tariffs?

3 A. I am not aware of any.

4 Q. Did you review or seek to review any rural LECs
5 outside the state of Illinois who may have filed
6 such tariffs?

7 A. No, I have not.

8 Q. On page 9 of your testimony you refer to the
9 November 10 FCC wireline-to-wireless LNP order and
10 you state that it does not address any cost recovery
11 issues directly. Did the FCC specifically decline
12 to address those issues in that case?

13 A. My understanding is that they concluded that
14 the issues were outside of the scope of that
15 proceeding.

16 Q. Did anything in that order refer to whether or
17 not the November 10 order should go into effect
18 pending any future orders on cost recovery?

19 A. My understanding is that a requirement would go
20 into effect.

21 Q. You refer to two cost-related circumstances
22 that you believe warrant the concern of the

1 Commission in this matter. The first of them --
2 actually, the second one, is this issue of cost
3 recovery for transit and transport. Do you believe
4 that such uncertainty, if there is any, alone
5 constitutes a basis for a waiver or a suspension?

6 MR. STANTON: I am going to object to that.
7 Mr. Hoagg -- or Mr. Koch, rather, is the cost
8 witness. Mr. Hoagg is the policy witness who makes
9 the call on whether the company has met their burden
10 under 251(f). So that question may be better
11 directed to Mr. Hoagg.

12 MR. RASHES: Your Honor, he specifically states
13 in his testimony that there are two cost-related
14 circumstances that are of concern. If he is
15 expressing his opinion as to what is of concern, I
16 have the right to ask him the weight of that
17 concern.

18 JUDGE ALBERS: I don't recall that testimony.
19 Do you --

20 MR. RASHES: Page 10. It is page 10 in both
21 versions.

22 JUDGE ALBERS: Overrule the objection. Do you

1 recall the question?

2 THE WITNESS: If you could repeat it, please.

3 MR. RASHES:

4 Q. Sure. Does the alleged uncertainty in the cost
5 recovery for transit and transport alone constitute
6 enough to grant or concern -- a circumstance that's
7 large enough to grant the suspension requested in
8 this case?

9 A. And it is my belief that in as much as the
10 transit and transport costs may be borne on the end
11 users, it would be instructive to know what that
12 impact might be and to inform the Commission of that
13 because it could represent a burden.

14 Q. In reviewing these costs that were provided to
15 you from Flat Rock, did you independently verify any
16 of the costs?

17 A. In as much as I did review the cost studies, I
18 didn't look at the assumptions. I did some checking
19 of rates to some extent. So there was some
20 verification involved.

21 Q. Which rates did you check?

22 A. I looked at access charges and as well as --

1 and this might not be so much for the cost study
2 itself as for data request responses that were used
3 to produce tables in my schedules. But I did some
4 verification to confirm some of those numbers.

5 Q. Did you independently verify the LNP software
6 estimate provided by the company?

7 A. No, I did not.

8 Q. Did you independently verify the switch
9 translation estimates provided by the company?

10 A. No, I did not.

11 Q. Did you independently verify the technical
12 trouble estimates provided by the company?

13 A. I did review the information they provided, but
14 I didn't seek a separate cost development for it. I
15 did use the numbers that they had provided.

16 Q. In looking at the transport and transit numbers
17 which you keep in your Scenario 1, is that correct?

18 A. Correct.

19 Q. Do you have any empirical data on the demand
20 for such service and demand for porting services and
21 the transport and transit in the Flat Rock area?

22 A. No, I do not.

1 Q. You talk in your testimony at the very bottom
2 of page 12 and continuing on to page 13 on Line 261
3 and 262 about a LEC's historic minutes of usage
4 numbers. Did Flat Rock provide their historic
5 minutes of use to you?

6 A. Yes, it was part of the cost support provided
7 by the company.

8 Q. And did you examine that?

9 A. Yes, I have.

10 Q. Do you know if those minutes of use would hold
11 for wireline-to-wireless the same as they would
12 wireline-to-wireline calls?

13 A. Do I know for certain? Obviously, these are
14 just estimates, since such porting has not occurred
15 yet. However, I am sorry, if -- the assumption made
16 was that simply when they were ported that that
17 minutes of use would not be affected.

18 Q. Did you look at any empirical data to support
19 that?

20 A. No, I have not.

21 Q. What take rate was used to develop this
22 transport and transit cost estimate?

1 A. The take rate provided by the company, six
2 percent at start-up and going to ten percent by year
3 five.

4 Q. Did you do any independent evaluation as to
5 whether or not that take rate would be correct?

6 A. No, I have not.

7 MR. RASHES: I have no further questions.

8 JUDGE ALBERS: Thank you. Mr. Muncy, do you
9 have any questions?

10 MR. MUNCY: No questions for Mr. Koch in this
11 docket.

12 JUDGE ALBERS: I don't have any questions
13 either. Do you have any redirect?

14 MR. STANTON: No.

15 JUDGE ALBERS: Okay. Thank you, Mr. Koch.

16 THE WITNESS: Thank you.

17 (Witness excused.)

18 JUDGE ALBERS: Call your next witness,
19 Mr. Stanton.

20 MR. STANTON: At this time staff calls
21 Mr. Hoagg to the stand.

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JEFFREY H. HOAGG

3

called as a Witness on behalf of Staff of the

4

Illinois Commerce Commission, having been first duly

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sworn, was examined and testified as follows:

6

DIRECT EXAMINATION

7

BY MR. STANTON:

8

Q. Would you kindly state your name and business

9

address, please.

10

A. Jeffrey Hoagg, J-E-F-F-R-E-Y, H-O-A-G-G, 527

11

East Capitol Avenue, Springfield, Illinois 62701.

12

Q. Do you have before you a document which has

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been marked --

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MR. MUNCY: Judge, we will waive all the

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foundational questions in regard to Mr. Hoagg's

16

testimony and have no objection to the admission of

17

his direct testimony as Staff Exhibit 1 in this

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docket.

19

MR. RASHES: Your Honor, we would like the

20

foundational questions of this witness to proceed

21

because -- we would like to proceed with the

22

foundational questions. We are not waiving that

1 because we do plan an oral motion to strike a
2 portion of his testimony.

3 JUDGE ALBERS: Okay. Mr. Stanton?

4 MR. STANTON:

5 Q. Mr. Hoagg, do you have before you a document
6 which has been marked for purposes of identification
7 as ICC Staff Exhibit 3.0 consisting of 20 pages of
8 narrative testimony in question and answer format
9 entitled the Direct Testimony of Jeffrey H. Hoagg?

10 A. Yes.

11 Q. Now, was that testimony drafted by you or under
12 your direction or supervision?

13 A. Yes, it was.

14 Q. Are there any additions, modifications or
15 corrections you wish to make to this testimony at
16 this time?

17 A. No.

18 Q. Now, if I was to ask you today exactly the same
19 questions as set forth in your narrative testimony,
20 would your answers be the same?

21 A. Yes.

22 Q. Is it your intention that this be your sworn

1 direct testimony in this proceeding?

2 A. Yes.

3 MR. STANTON: Judge, at this time I ask that
4 the direct testimony of Jeffrey H. Hoagg previously
5 marked as Staff Exhibit 1.0 be admitted into
6 evidence.

7 JUDGE ALBERS: Any objections?

8 MR. RASHES: Yes, Your Honor, we would orally
9 move to strike Mr. Hoagg's testimony at lines 243 on
10 page 11 through 248 on page 12 and, again, at lines
11 302 on page 14.

12 JUDGE ALBERS: I am sorry, 302?

13 MR. STANTON: 242.

14 MR. RASHES: I will start again. 243 through
15 248, that's page 11 and 12, and then turning to page
16 14, lines 302 and line 307, up to the end of that
17 sentence ending with the word "subscribers" period.

18 MR. STANTON: So line 302 beginning with "More
19 complete" to "demand of Flat Rock subscribers," on
20 line 307.

21 MR. RASHES: Correct. Your Honor, we are
22 moving to strike that because it was impermissible

1 hearsay. Mr. Hoagg says right off the bat based on
2 my discussions with SBC and Verizon. Those
3 representative are not present in the room to be
4 cross-examined. They are not named. He basically
5 is discussing take rates from other areas of the
6 state that are irrelevant to the rural LECs. And in
7 light of your earlier ruling that take rate, actual
8 take rates, from rural carriers is inadmissible, we
9 feel that this is likewise inadmissible hearsay and
10 irrelevant to this proceeding.

11 JUDGE ALBERS: Well, the initial matter the
12 earlier ruling was not solely on the basis of which
13 carriers were on that list and the absence of Flat
14 Rock. There were other infirmities, as indicated,
15 altogether which went beyond the point which I
16 believe it was appropriate for admission.

17 MR. RASHES: We are aware of your ruling, Your
18 Honor, but we feel that this is impermissible
19 hearsay.

20 JUDGE ALBERS: I just wanted you to be clear on
21 my prior ruling. Any response from Staff?

22 MR. MADIAR: Your Honor, in response to the

1 motion to strike, the issue is, is this
2 impermissible hearsay. And our response would be
3 that there is an exception to the hearsay rule
4 underneath Section 1040 of the Illinois
5 Administrative Procedure Act and this Commission's
6 rules in that evidence not admissible under the
7 rules of evidence may be admitted in as a type
8 commonly relied upon by a reasonably prudent man in
9 the conduct of their affairs. We believe
10 discussions that Staff witnesses may have with other
11 folks in the industry is the type of information
12 that would be reasonably relied upon by persons that
13 are involved in that field. And we would seek to
14 have it admitted as substantive evidence under that
15 hearsay exception.

16 JUDGE ALBERS: Do you want to reply to that
17 response?

18 MR. RASHES: Yes, Your Honor. I am not quite
19 sure how a reasonable person can be looking at
20 apples and seeing oranges. He is looking at take
21 rates from the very beginning of local number
22 portability and allegedly reasonably extrapolating

1 them out for the next five years. In addition, he
2 is looking at very, very different areas of the
3 state and areas where there already is heavy, heavy
4 telecommunications choice, lots of CLECs, and people
5 were comfortable with porting their numbers in those
6 areas. This data -- a reasonable person would look
7 at this data and agree it is prejudicial and
8 irrelevant to rural take rates.

9 MR. MADIAR: May I respond, Your Honor? I
10 believe that the comments that were just offered by
11 Mr. Rashes do not go to whether this is something
12 that reasonable men would rely upon but rather goes
13 toward the weight that evidence that should be given
14 by Your Honor. So I still don't see how it does not
15 refute our hearsay exception that he is seeking to
16 strike this evidence upon.

17 MR. RASHES: Your Honor, clearly Staff would
18 like to propose a double standard here because the
19 additional objections you came up with were not
20 Staff's objections to Exhibit D. So if Staff wants
21 to see Exhibit D, which is clearly reasonably -- a
22 reasonable man would look at for what the rural take

1 rates are around the state when you have got rural
2 carriers listed at attempted takes, and then say
3 that's not admissible, no reason I wouldn't look at
4 that, but a reasonable man for deciding rural take
5 rates would look at urban areas, top 100 MSA's where
6 wireline-to-wireline, that is just
7 wireline-to-wireline, has been available for the
8 last three years and would look at them and
9 extrapolate into rural areas where there isn't even
10 wireline-to-wireline local number portability. And
11 some of the areas in the Attachment D are identical
12 to -- well, they are SBC territories on Attachment
13 D. So they are identical to what you are saying you
14 would reasonably rely on.

15 JUDGE ALBERS: Is it Verizon Wireless's
16 position that even the SBC entries, for lack of a
17 better word, on Attachment D that you have
18 previously offered are not mistakes and are in fact
19 accurate depictions of a refusal for LNP
20 portability, LNP implementation?

21 MR. RASHES: They are accurate. There are
22 probably mistakes on the part of SBC in implementing

1 LNP. So the use of the word "mistake" is a loaded
2 question there. But they are accurate that there
3 was demand in those areas that were denied. But
4 they are certainly not accurate as to what the take
5 rate is at SBC. They have a lot, probably almost
6 99.9 percent, of their switches are LNP compatible
7 and are not showing up on that report as looking
8 favorable.

9 JUDGE ALBERS: In light of the circumstances, I
10 am inclined to agree with Staff and deny the motion
11 to strike. However, you are certainly free to
12 question Mr. Hoagg to your heart's content on the
13 validity of his use of these numbers. So for the
14 record then the motion to strike is denied.

15 Is there any other objections to the Staff
16 testimony and exhibits? No attachment, just the one
17 exhibit.

18 MR. RASHES: No, Your Honor.

19 JUDGE ALBERS: Hearing no further objections
20 and having noted Verizon Wireless's objections for
21 the record, Staff Exhibit 1.0 is admitted.

22 (Whereupon ICC Staff

1 Exhibit 1.0 was
2 admitted into
3 evidence.)

4 MR. STANTON: The witness is available for
5 cross examination.

6 CROSS EXAMINATION

7 BY MR. RASHES:

8 Q. Good morning, Mr. Hoagg. My name is Haran
9 Rashes. I am with the law firm Clark Hill, P.L.C.,
10 and I represent Verizon Wireless in this matter. I
11 understand that previously you worked for the New
12 York Public Service Commission, is that correct?

13 A. That's correct.

14 Q. Are you aware of how the New York Public
15 Service Commission dealt with similar requests for
16 suspension from the wireline-to-wireless local
17 number portability obligations?

18 A. Not in any detail. My general understanding or
19 impression from press is that they in fact in some
20 way denied at least one such petition.

21 Q. You also previously worked for the FCC,
22 correct?

1 A. Correct.

2 Q. Are you aware of how the FCC has dealt with
3 petitions to extend the wireline-to-wireless local
4 number portability obligation past May 24, 2004?

5 A. You would have to specify what petitions you
6 would be referring to.

7 Q. I don't have the number, but are you familiar
8 with the eastern Pennsylvania order?

9 A. That one I do have some recollection about.
10 Under the standards that they apply, which are
11 different than the standards that would be applied
12 in this case, at least that's my understanding, I
13 believe they rejected such a petition.

14 Q. So they wouldn't be applying 252(f)

15 A. It is my understanding that they would not.

16 Q. Is it your understanding or do you know or not
17 know what FCC standard was applied, what standard
18 was applied by the FCC?

19 A. As a non-lawyer, you know, with that
20 qualification, I know that they wouldn't apply the
21 same standard.

22 Q. You talk in your testimony on page 4 that you

1 considered several policy factors and considerations
2 you need for smaller, more rural ILECs in Illinois.

3 What constitutes a smaller, more rural ILEC?

4 A. You will have to give me a line reference in
5 addition to a page reference.

6 Q. Lines 60 to 61, page 4.

7 A. Okay. Can you repeat your question, please?

8 Q. Looking at that testimony you talk about unique
9 to smaller, more rural ILECs. Please define a
10 smaller, more rural ILEC.

11 A. Well, from the very words smaller and more
12 rural, I think you can -- or that intent was to
13 convey that that is not a precise description.
14 Smaller, more rural in comparison to SBC and Verizon
15 in this state would be how I would define a smaller,
16 more rural carrier.

17 Q. And would you lump all of those together?

18 A. No, not at all.

19 Q. How many smaller, more rural carriers are there
20 in the state of Illinois?

21 A. Well, I can give you a rough estimation, if you
22 would like that.

1 Q. Please give me a rough estimation.

2 A. In the low 40's.

3 Q. Have any of those low 40, those carriers, not
4 filed for local number portability waivers?

5 A. It is my understanding that a few have not.

6 Q. Did you examine the local number portability
7 status of those few who have not?

8 A. Don't know what you mean by local number
9 portability status.

10 Q. Did you examine whether or not they are
11 providing local number portability in the post-May
12 24 era?

13 A. Not in any detail because my assumption was, if
14 they had not been granted at least an interim
15 suspension or waiver by this Commission, that they
16 would be adhering to the law or the FCC rules in
17 this regard. So I did not examine them.

18 Q. With that assumption in place did you examine
19 any of their tariffs or applied for tariffs to
20 recover their LNP costs?

21 A. I examined in general the general NECCA tariff
22 format.

1 Q. Is that for an Illinois company?

2 A. That is the kind of format that would be filed
3 by Illinois companies. But, no, I did not look -- I
4 felt no need at all to look at specific tariffs
5 filed by -- filed or not filed by Illinois carriers
6 at this point.

7 Q. You note on line 75 or 76 through 78 of your
8 testimony that the FCC has stated that the failure
9 of telecommunications carriers to provide number
10 portability hampers the development of local
11 competition. Do you believe Flat Rock has viable
12 local competition?

13 A. Yes.

14 Q. So there is another land line providing service
15 in the Flat Rock area?

16 A. No.

17 Q. You then go on to state that the FCC has
18 emphasized that carriers offering number portability
19 also participate in number pooling to optimize
20 numbering resources which benefits consumers by
21 staving off the creation of new area codes. Are you
22 familiar with the October 16, 2001, letter from

1 Thomas G. Aridas on behalf of the Commission to the
2 Federal Communications Commission that was attached
3 to Mr. McDermott's testimony as Attachment A?

4 A. No.

5 Q. How long have you been in your current
6 position?

7 A. How long have I been in my current position?

8 Q. Yes.

9 A. On the order of four years.

10 Q. Were you in your current position on October
11 16, 2001?

12 A. Sure.

13 Q. As principal policy adviser to the
14 Telecommunications Division, did you have any role
15 in developing this Commission's policy vis-a-vis
16 number pooling?

17 A. Not at all. That's not an area of my
18 expertise. We have someone with much more
19 background in that area than I do who in fact is our
20 principal on that.

21 Q. Do they report to you?

22 A. Do they report to me?

1 Q. Does that person report to you?

2 A. No.

3 Q. Are you aware of this Commission's position on
4 number pooling?

5 A. Very vaguely.

6 Q. Are you aware that Flat Rock is in the 618 area
7 code?

8 JUDGE ALBERS: Subject to check, Mr. Hoagg,
9 would you accept that Flat Rock is in the 618 area
10 code?

11 A. Subject to check I would accept that they are
12 in that area code.

13 Q. Are you aware that Flat Rock is sitting on
14 9,468 unused numbers?

15 A. No.

16 Q. Are you aware that the 618 area code is in
17 jeopardy status?

18 A. Yes.

19 Q. And are you aware that the 618 area code is
20 under number rationing at the present time?

21 A. My understanding is that number rationing and
22 jeopardy status go hand in hand.

1 Q. Did you ask anyone else at the Commission about
2 the importance or the impact of these waivers on
3 number portability?

4 A. Yes.

5 Q. And who did you ask?

6 A. I asked our numbering expert, George Light.

7 Q. And what was his answer?

8 A. Well, I don't know that you would want me to
9 repeat the entire conversation. I mean, it was a
10 fairly lengthy conversation. So maybe if you focus
11 it down, I can try to give you the pertinent part of
12 the conversation.

13 Q. Okay. I will get very focused. Your line on
14 line 78 through 81, the FCC comment there, does the
15 Illinois Commission agree that, quote, carriers
16 offering number portability also participate in
17 numbering pooling to optimize numbering resources
18 which benefit consumers by staving off the creation
19 of new area codes?

20 MR. MADIAR: Objection, Your Honor. I would
21 ask counsel to rephrase the question. He asked does
22 the Illinois Commerce Commission believe that --

1 MR. RASHES:

2 Q. Is it the Commission's position that number
3 pooling is important?

4 A. I would be willing to say that my general
5 impression and understanding is that the
6 Commission's general position is number pooling is
7 important.

8 Q. And should that be an important consideration
9 on the suspension of the wireline-to-wireless local
10 number portability requirements?

11 A. Do I think that that should be an important
12 consideration?

13 Q. Yes.

14 A. No.

15 Q. On page 7 of your testimony, line 144, you
16 refer to users of telecommunication services
17 generally. And you state that it is best understood
18 to refer to the general body of Flat Rock
19 subscribers. What was the basis for that
20 understanding?

21 A. Actually, I didn't have such an understanding.

22 Q. Belief. What was the basis for your belief?

1 A. I looked at that language in the Act, and from
2 a policy perspective I thought about in the context
3 of a specific petition that might be submitted under
4 that section of the Act and thought about the
5 alternatives, under that specific set of
6 circumstances that one could attach to those words,
7 I came to the conclusion that from my perspective
8 the best interpretation was users of
9 telecommunications generally refer to the body of
10 users of the entity that is submitting the petition.

11 Q. Did you look at any other Commission orders to
12 develop that belief?

13 A. ICC orders?

14 Q. Yes.

15 A. Well, I certainly looked at any number of ICC
16 orders in the process of developing this testimony
17 and thinking about Section 251(f) generally. As to
18 any specific ICC order that deals with this issue,
19 no. I mean, I did not try to find a specific order
20 that in some sense was a precedential examination of
21 this.

22 Q. Are Verizon Wireless subscribers users of

1 telecommunication services?

2 A. Yes.

3 Q. Could you look at the cost estimates provided
4 by Flat Rock?

5 A. Yes.

6 Q. Did you independently verify any of the figures
7 contained in those cost estimates?

8 A. Of course not. I am a policy guy. I don't
9 look at numbers.

10 Q. Did you do any comparison of the numbers from
11 one case to another among the different suspension
12 petitions?

13 A. Yes.

14 Q. Do you believe that competition is a benefit to
15 consumers in the state of Illinois?

16 A. As a general matter, yes.

17 Q. Did you quantify that benefit in your analysis
18 in this case?

19 A. If by quantification you mean any kind of
20 empirical work, the answer is no. The extent of the
21 effort to quantify was at the conceptual level, and
22 it is more or less reflected in my testimony.

1 Q. You compared Flat Rock's estimated costs to SBC
2 Illinois. Do you believe that's a fair comparison,
3 to compare Flat Rock to SBC Illinois?

4 A. Can you --

5 Q. Are Flat Rock and SBC Illinois similarly
6 situated in regards to their customer base?

7 A. No, but they would be similarly situated with
8 regard to a per access line surcharge. Every access
9 line in the serving territory of each of the
10 companies would be subject to that surcharge. So in
11 that sense they are comparable.

12 Q. Are SBC and Flat Rock comparable in terms of
13 the number of access lines per switch?

14 A. I can't answer that. I don't believe that they
15 are, no.

16 Q. Did you examine that in making this comparison?

17 A. Well, if I had examined it, I would probably be
18 able to answer your question.

19 Q. So the answer is you did not examine it,
20 correct?

21 A. That is correct.

22 Q. Did you ask Verizon land lines' surcharge?

1 A. Yes.

2 Q. What was Verizon land lines' surcharge?

3 A. I can't recall with specificity. It was in the
4 general neighborhood of SBC's surcharge. My
5 recollection is maybe somewhere around 40 cents
6 maybe.

7 Q. Did SBC or Verizon ever ask this Commission to
8 examine those surcharges in any way?

9 A. No, they would have no grounds for such a
10 request.

11 Q. You talk about the, quote unquote,
12 wireline-to-wireless take rates in Illinois and talk
13 about discussions with representatives from SBC and
14 Verizon. Who did you talk to at SBC?

15 A. Would you give me a page and a line reference?

16 Q. Page 11, very bottom of the page, line 243
17 continuing on to the top of page 12, line 248.

18 A. Repeat the question, please.

19 Q. Who at SBC did you have these discussions with?

20 A. I had these discussions with regulatory
21 personnel.

22 Q. Who in the regulatory personnel?

1 A. Probably several people but probably the
2 primary contact would be Carl Vordeen (sp)

3 Q. And who did you talk to at Verizon land line?

4 A. Again, probably the primary contact in that
5 case was Craig Smith. Again, also of in that case
6 Verizon land line's regulatory operations.

7 Q. What were the dates of these conversations?

8 A. Oh, I couldn't be specific but about the time
9 that I previously filed testimony regarding LNP
10 cases. So somewhere in the -- somewhere in the
11 December, January time frame, December of 2003,
12 January of 2004 time frame.

13 Q. And how long had wireline-to-wireless local
14 number portability been offered by SBC and Verizon
15 land line at that point?

16 A. Oh, can't be specific but approximately, since
17 November 24, 2003.

18 Q. In your opinion are those take rates reflective
19 of an early start up for the service?

20 A. Well, I think by definition a take rate that --
21 an estimate for a take rate that I got, let's say,
22 around January 2004 for a service that had first

1 been offered around the November 2003 time frame, I
2 would say by definition that's generally a start-up
3 time frame.

4 Q. Is it correct that this same take rate
5 testimony appears in those earlier five cases, in
6 your testimony in those five cases?

7 A. That's absolutely correct.

8 Q. This testimony was filed on May 20, correct?

9 A. Correct.

10 Q. Did you make any attempt to update those
11 numbers?

12 A. Oh, yes, I did.

13 Q. But you did not update the numbers, correct?

14 A. I did not put updated numbers in this testimony
15 here.

16 Q. Do you know if the people that you spoke to at
17 SBC and Verizon land line, are they the ones
18 directly responsible for tracking the take rates?

19 A. No. The people in regulatory, I am not sure
20 what they are responsible for, other than talking to
21 Staff. But they are not responsible for that.

22 Q. So they had to go out and get these numbers for

1 you, correct?

2 A. Oh, they went -- yes, they went to the expert.
3 They went to people with responsibility in this area
4 in the companies.

5 Q. Do you know who that is?

6 A. I actually was given that name for SBC, but I
7 can't recall it right now.

8 Q. So the people you spoke to are not, quote
9 unquote, the custodians of these numbers, correct?

10 A. I don't know. I think you would have to define
11 custodian for me.

12 Q. They are not the ones who regularly keep track
13 of this stuff?

14 A. Well, I think they regularly -- I think they at
15 least occasionally track this stuff, but they do not
16 generate the numbers.

17 Q. Do you know precisely what the people you spoke
18 to asked the experts for?

19 A. No, I was not privy to those conversations.

20 Q. You also state on lines 302 through 304,
21 actually through 307, that evidence concerning
22 demand for wireline-to-wireless local number

1 portability by Verizon and SBC Illinois customers
2 would provide a more comprehensive benchmark for the
3 expected demand of Flat Rock subscribers. If this
4 petition is granted, and let's hypothetically say
5 two years from now they come back with another
6 petition, do you still believe you will be looking
7 at SBC and Verizon take rates at that point or would
8 you be looking at other small rural LECs who are
9 providing LNP?

10 A. I would be -- if I am in this position and the
11 case comes back, I would be examining -- my intent
12 would be to examine all available take rate
13 information.

14 Q. Would you like to do that now?

15 A. Sure.

16 Q. Did you look at the take rate -- I mean, since
17 you filed your testimony on May 20, did you consult
18 with any small and rural LECs, whether in Illinois
19 or elsewhere, to see what the take rate has been in
20 the first two weeks of providing the service?

21 A. No, I have been a little busy. I didn't care
22 much about the take rates in the first two weeks.

1 Q. But the first two months you did care about?

2 A. Yeah, I will start looking at take rates a
3 couple months, you know, a couple months out from
4 that May 24 date.

5 Q. You state in your testimony that there are
6 three challenges to various aspects of the FCC's
7 wireline-to-wireless LNP requirements pending in the
8 Federal Court of Appeals?

9 MR. STANTON: Can I get a page reference?

10 Q. On page 17. Have you reviewed those three
11 appeals?

12 A. I looked at -- I looked at some of the
13 documents surrounding those files. It is actually
14 my understanding now -- I haven't followed them
15 closely. I believe some of them were consolidated,
16 but I did look at documents related to those
17 appeals. I cannot recall right now specifically
18 which ones. But, yes, I did, in general.

19 Q. Did you look at any of the pleadings in those?

20 A. Beyond -- just one second. Define pleadings
21 for me.

22 Q. The pleadings are the documents filed with the

1 court. Did you look at the actual appeal documents
2 themselves and the answer of the FCC thereto?

3 A. I didn't look at the answer of the FCC thereto.
4 I may have -- I believe I looked at one, at least
5 one, of the initial filings.

6 Q. And which one was that?

7 A. I believe it was a USTA filing.

8 JUDGE ALBERS: Could you spell that?

9 A. I am sorry. U-S-T-A, caps.

10 Q. The suspension you are recommending, it is not
11 exactly clear in here, it is either two years or 30
12 months, I am not sure from your testimony. When are
13 you -- you are recommending a suspension through
14 what date?

15 A. Well, in my testimony I did not -- I have not
16 recommended suspension through a specific date. In
17 my testimony I indicated that a suspension of
18 approximately a two-year time duration, I felt,
19 would be warranted and sufficient to accomplish the
20 objectives that I had in mind in terms of
21 gathering -- you know, gathering actual usable
22 empirical information in terms of allowing the

1 various court proceedings to play out. So I felt,
2 speaking generally, that a year is too short for
3 that; that something on the order of at least two
4 years would probably be required.

5 Q. Is that the same suspension you recommended in
6 the five cases that have already been decided by the
7 Commission?

8 A. No. My recollection is that I actually did
9 recommend a specific time period in the other cases.
10 And my recollection, which could be wrong, but my
11 recollection is 30 months.

12 Q. Is this the same -- the recommendation in Flat
13 Rock, is that the same recommendation you have made
14 in the other 33 pending cases that are up for
15 hearing this week and next? Or the other 32?

16 A. Yeah, it's the same in the sense -- it
17 certainly is the same that in the sense that in all
18 cases I am recommending a temporary suspension of
19 approximately two years.

20 Q. If such suspension is granted, wouldn't that by
21 definition mean that you might have an exchange, one
22 exchange next to another, where in Exchange A LNP is

1 available and in Exchange B it is not?

2 A. Oh, yes, that is conceivable. What that --
3 that's conceivable and I might even expect that to
4 happen. But I have no idea how common that might be
5 under my recommendation.

6 Q. Do you expect Flat Rock will be ready to
7 provide LNP and required to provide LNP when the
8 suspension is over?

9 A. On balance I would say that I expect it. I
10 certainly don't consider it to be a certainty. I
11 would attach something more than a 50/50 likelihood
12 as my guess.

13 Q. Is it your recommendation that the Commission
14 should require them as part of a grant of
15 suspension, to be ready to provide LNP when that
16 suspension is over?

17 A. I intended that to be part of my recommendation
18 unless -- and the way my testimony reads is, yes,
19 the Commission should indicate they must be prepared
20 to do that unless something intervenes to cause, you
21 know, some other circumstance with respect to Flat
22 Rock. And by intervening events, I mean court

1 cases, you know. Really I do mean judicial or
2 regulatory. Absent judicial or regulatory events,
3 they better be ready to do it. Whether or not in my
4 own view circumstances at that point in time would
5 warrant it, is something, of course, that will have
6 to play out both on the demand and the cost side.

7 Q. Do you believe the Commission should set a date
8 certain for the end of any suspension?

9 A. Oh, absolutely, yes.

10 Q. And what date would you propose?

11 A. Well, if you pin me down to a specific date,
12 you know, first let me try a range and then see if
13 that's sufficient. If not, then I will go to a
14 specific date. Although this is not specifically
15 proposed in my testimony, you know, sitting here
16 today what I would propose is a date that is no less
17 than two years from the May 24 date and probably no
18 more than two and a half years from that date,
19 somewhere in that span.

20 MR. RASHES: I have no further questions of
21 Mr. Hoagg this morning.

22 JUDGE ALBERS: Thank you. Do you have any

1 questions, Mr. Muncy?

2 MR. MUNCY: I guess just a couple.

3 CROSS EXAMINATION

4 BY MR. MUNCY:

5 Q. In response to counsel for Verizon Wireless's
6 questions right there at the end you indicated that
7 you thought Flat Rock should be prepared to provide
8 LNP at the end of the suspension, do you recall
9 that?

10 A. Yes.

11 Q. You said that there could be intervening events
12 such as court decisions and things of that nature
13 that would change your opinion perhaps or lead to a
14 re-examination, is that correct?

15 A. Correct.

16 Q. You do recognize that whatever end date the
17 company is requesting, November 24, 2006, that in
18 advance of that they could come in and seek, if they
19 thought they qualified, another suspension under the
20 provisions of the 251(f); they have the right to
21 seek such a suspension, further suspension, if they
22 could prove their case?

1 MR. STANTON: You are asking for his non-legal
2 opinion?

3 MR. MUNCY: Yeah.

4 Q. I am asking for your non-legal opinion.

5 A. Yes, everything I understand, the answer to
6 that question is yes.

7 Q. And if, you know, six months in advance of the
8 end of the suspension date they came in and sought a
9 request and at that point in time there was
10 virtually no demand for wireline-to-wireless local
11 number portability, would that be a factor that you
12 would want to take into consideration at that point
13 in time?

14 A. Under that hypothetical, with virtually no
15 demand at that point in time, I would certainly
16 recommend to the Commission that they consider that
17 fact that you are now supposing, that they consider
18 that fact carefully and any examination of such a
19 petition.

20 MR. MUNCY: That's all the questions I have.

21 JUDGE ALBERS: I don't think I have anything
22 for you, Mr. Hoagg. Mr. Stanton, do you have any

1 redirect?

2 MR. STANTON: No redirect.

3 JUDGE ALBERS: Thank you, Mr. Hoagg. You may
4 step down.

5 (Witness excused.)

6 JUDGE ALBERS: Is there anything further from
7 Staff?

8 MR. STANTON: None from Staff.

9 JUDGE ALBERS: Anything additional from anyone
10 with this docket?

11 MR. MUNCY: That's all for this docket, I
12 believe.

13 JUDGE ALBERS: Anything else?

14 MR. MADIAR: Right, Staff rests.

15 JUDGE ALBERS: Does Verizon Wireless have
16 anything else to add for this docket?

17 MR. RASHES: No, we don't, Your Honor.

18 JUDGE ALBERS: All right. Then the briefing
19 schedule as previously determined will remain in
20 place, and with that I will mark the record heard
21 and taken.

22 HEARD AND TAKEN

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